

COTTONWOOD HEIGHTS

RESOLUTION No. 2019-73

A RESOLUTION APPROVING AN AGREEMENT FOR
ENGINEERING SERVICES WITH GILSON ENGINEERING
(EAST JORDAN CANAL TRAIL)

WHEREAS, the city council (the "Council") of the city of Cottonwood Heights (the "City") met in regular session on 19 November 2019 to consider, among other things, approving an "Agreement for Engineering Services" (the "Agreement") with Gilson Engineering ("Gilson") whereunder Gilson would provide to the City engineering services relating to the city's proposed "East Jordan Canal" trail as specified in the Agreement; and

WHEREAS, the Council has reviewed the form of the Agreement, a photocopy of which is annexed hereto; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve the City's entry into the Agreement as proposed;

NOW, THEREFORE, BE IT RESOLVED by the Cottonwood Heights city council that the attached Agreement is hereby approved, and that the City's mayor and recorder are authorized and directed to execute and deliver the Agreement on behalf of the City.

This Resolution, assigned no. 2019-73, shall take effect immediately upon passage.

PASSED AND APPROVED effective 19 November 2019.

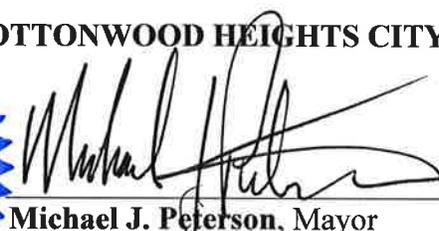
ATTEST:

COTTONWOOD HEIGHTS CITY COUNCIL

By:


Paula Melgar, Recorder

By:


Michael J. Peterson, Mayor



VOTING:

Michael J. Peterson	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>
Michael L. Shelton	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>
Tali C. Bruce	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>
Christine Watson Mikell	Yea <input checked="" type="checkbox"/> Nay <input type="checkbox"/>

DEPOSITED in the office of the City Recorder this 19th day of November 2019.

RECORDED this 22 day of November 2019.

Agreement for Engineering Services

THIS AGREEMENT FOR ENGINEERING SERVICES (this "*Agreement*") is made effective the date specified below by **COTTONWOOD HEIGHTS**, a Utah municipality whose address is 2277 East Bengal Blvd., Suite 250, Cottonwood Heights, UT 84121 ("*City*"), and by the individual or entity identified on the signature page of this Agreement ("*Engineer*").

RECITALS:

- A. Engineer is licensed to perform, and is in the business of providing, engineering services of the type described on or contemplated by attached Exhibit "A" (the "*Services*").
- B. City desires to obtain the Services from a licensed, qualified expert.
- C. By this Agreement, City desires to retain Engineer, and Engineer desires to be retained by City, to perform the Services on the terms and conditions specified herein.
- D. City and Engineer intend to identify herein the Services to be performed for City by Engineer, the basis of compensation for such Services, and to otherwise set forth their entire agreement concerning the Services. Consequently, this Agreement shall supersede any and all prior or contemporaneous negotiations and/or agreements, oral and/or written, between the parties concerning the Services to be provided under this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises, the mutual covenants and undertakings of the parties hereto, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

Section 1. **Scope of Services.** Engineer shall provide the Services to City as reasonably directed by City. In addition or in lieu of the description on attached Exhibit "A," City shall define, in writing, the scope of the requested Services in connection with each specific Services project submitted to Engineer. In each such instance, the parties shall specify in writing the basis of payment, including the maximum charge, and such other pertinent matters as the parties shall deem applicable in that situation. Written acceptance of such terms by each party shall be required in each instance. Written clarification of the scope of the project, the basis of payment, mutual acceptance thereof, etc. may occur, without limitation, by e-mail correspondence.

Engineer shall provide such written reports of its findings and results to City as City reasonably may request. Engineer also shall endeavor to make itself available to report its findings in public meetings of City's planning commission, board of adjustment and/or city council, if and as requested by City from time to time.

City shall be freely entitled to stop Engineer's work at any stage of the Services if City determines that adequate information has been obtained or that such stoppage is warranted for any reason. In such event, and notwithstanding anything to the contrary in this Agreement, Engineer shall be entitled only to compensation due for Services rendered through the effective date of such termination, and shall have no claim for any other payments or damages, all as explained more specifically below.

Section 2. **Performance of Services.** Engineer shall furnish all supervision, personnel, labor, materials, supplies and equipment, and shall obtain all required licenses and permits, for performance of the Services. The Services shall be performed outside of City's offices.

Section 3. **Compensation; Invoices; Remittance.** For satisfactory performance, City shall pay Engineer for the Services as described on attached Exhibit "B," whether a specified flat fee or at the hourly rate specified on such exhibit for each hour Engineer expends in performing the Services, as agreed in writing by the parties at the time City requests the Services. The parties agree that payment of an hourly rate hereunder may be used as a convenient way of paying progress payments as part of an agreed-upon fixed price for a project of Services.

(a) **Invoices.** Engineer shall invoice City for the Services performed during each calendar month at the end of that month or as soon as practical thereafter. All invoices submitted to City shall contain references to this Agreement. Invoices shall detail the Services performed, the person(s) performing such Services, the hours worked (in one-tenth hour increments) as applicable, the applicable hourly rate(s), and shall contain copies of all supporting documents or proof of any expenditures on behalf of City.

(b) **Questioned Charges.** Any questions or objections by City concerning Engineer's charges under an invoice shall be submitted within 30 days after City's receipt of the subject invoice.

(c) **Remittances.** Subject to subsection 3(b), all invoiced amounts due for Services performed shall be paid by City within 30 days after City's receipt of the subject invoice. If payment is not remitted to Engineer when due, Engineer shall be entitled to recover interest thereon at the rate of 6% per annum from and after the date the remittance is due and payable.

(d) **Non-Funding.** The parties acknowledge that funds are not presently available for performance of this Agreement by City beyond the June 30th immediately following the date of this Agreement. City's obligation for performance of this Agreement beyond that date (or beyond the end of any of City's future July 1st through June 30th fiscal years within the term of this Agreement) is contingent upon funds being appropriated for payments due under this Agreement. In the event that no funds or insufficient funds are appropriated and budgeted in a current or any succeeding fiscal year, or in the event there is a reduction in appropriations of City, due to insufficient revenue, resulting in insufficient funds for payments due or about to become due under this Agreement, then this Agreement shall create no obligation on City as to such fiscal year (or any succeeding fiscal year), but instead shall terminate and become null and void on the first day of the fiscal year for which funds were not budgeted and appropriated, or, in the event of a reduction in appropriations, on the last day before the reduction becomes effective (except as to those portions of payments herein then agreed upon for which funds are appropriated and budgeted). Said termination shall not be construed as a breach of or default under this Agreement and said termination shall be without penalty, additional payments, or other charges to City of any kind whatsoever, and no right of action for damages or other relief shall accrue to the benefit of Engineer or its successors or assigns as to this Agreement, or any portion thereof, which may so terminate and become null and void.

Section 4. **Change in Level of Services.** City shall be freely entitled to modify (increase or decrease) the level of the Services hereunder upon prior written notice to Engineer of

such change. Engineer's compensation shall be reasonably modified in connection with any such change as agreed by the parties.

Section 5. **Suspension of Services.** City may by written notice direct Engineer to temporarily suspend performance of any or all of the Services for a specified period of time. If such suspension is not occasioned by the fault or negligence of Engineer, this Agreement may be modified to compensate Engineer for extra costs reasonably incurred as a result of said suspension, provided that any claim for adjustment is supported by appropriate cost documentation and asserted within 20 calendar days after the date that City issues an order for resumption of the Services. Upon its receipt of any such suspension notice, Engineer immediately shall (a) discontinue the Services; (b) place no further orders or subcontracts in connection with the Services; (c) suspend all outstanding orders and subcontracts in connection with the Services; (d) protect and maintain the existing work and work-product in connection with the Services; and (e) otherwise mitigate City's costs and liabilities for the suspended areas of the Services.

Section 6. **Termination for Convenience.** City may terminate this Agreement, or any part hereof, at any time with or without cause prior to its completion by sending to Engineer written notice of such termination. Upon any such termination, City shall pay to Engineer the full amount due for all Services satisfactorily performed by Engineer as of the date of termination, excluding damages or anticipated profits on work not yet completed or performed.

Section 7. **Ownership of Designs and Drawings.** All documents (whether printed or stored on paper or as electronic, magnetic, or digital information) produced or collected by Engineer in its performance of the Services (including, without limitation, original drawings, estimates, specifications, field notes and data) (collectively, the "*Documents*") are and shall remain the exclusive property of City. Conditioned only on City's payment to Engineer of the amounts due hereunder, at the conclusion of the Services or any earlier termination thereof Engineer shall deliver to City all Documents, whether or not complete. Engineer may, at its expense, reproduce for its own records the Documents so supplied to City. Engineer may not disclose, sell, use, publish or display any Documents or other information collected or produced in connection with its performance of this Agreement without City's prior written consent.

Section 8. **Nondisclosure; Conflict of Interest.** Engineer shall not divulge to third parties without City's prior written consent any information obtained from or through City in connection with the performance of this Agreement. Unless waived by City, Engineer shall require its employees and subcontractors of any tier to adhere to the same covenant of nondisclosure. Engineer shall safeguard the confidentiality of any information obtained from or through City in connection with the performance of this Agreement to the same extent as Engineer safeguards the confidentiality of its own proprietary or confidential information. Engineer and its subcontractors shall not act as an engineer in any matters adverse to City.

Section 9. **Compliance with Laws.** Engineer shall at all times comply with all applicable federal, state and local laws, statutes, rules, regulations, and ordinances, including, without limitation, those governing wages, hours, desegregation, employment discrimination, workers' compensation, employer's liability and safety. Engineer also shall comply with all applicable equal opportunity laws and regulations.

Section 10. **Patent and Copyright.** If Engineer's employees, officers, agents, subcontractors of any tier, or anyone of a like nature in the performance of the Services or as a

result of performing the Services develop any trade secret, prepare any copyrighted material, make any improvement, originate any invention, or develop any process or the like (collectively, an “*Innovation*”), (a) such Innovation shall be the property of Engineer, but (b) Engineer shall grant or cause to be used for the benefit of City (or for City’s own internal use) the Innovation for so long as City reasonably desires.

Section 11. **Independent Contractor.** Engineer shall perform the Services as an independent contractor, and all persons employed by Engineer in connection with this Agreement or the Services shall be employees of Engineer and not employees of City in any respect or for any purpose. In connection therewith:

(a) Engineer represents and warrants to City that:

(i) Engineer has its own place of business separate from City;

(ii) Engineer has a substantial investment in the tools of his trade, and understands and agrees that City will not provide any equipment, tools or supplies for Engineer’s use;

(iii) Engineer regularly performs similar services for other clients, and actively seeks additional clients through advertising or other similar means;

(iv) Engineer holds all necessary licenses and certifications to provide the Services;

(v) Engineer is responsible for its own profit or loss in providing the Services, and will receive no reimbursement from City for Engineer’s out-of-pocket costs incurred in performing the Services; and

(vi) Engineer maintains its own business records, tax forms, etc.

(b) City represents and warrants to Engineer that:

(i) City does not provide training or require Engineer to attend training meetings;

(ii) Except for project deadlines, Engineer controls the pace or sequence of its services;

(iii) Engineer is not required or permitted to work on City premises or to use City equipment; and

(iv) Engineer is responsible for the quality and timeliness of the Services, but is not required to personally perform the Services.

Section 12. **Assignment.** Engineer shall not assign this Agreement, or any part thereof, without City’s prior written consent. Any attempted assignment in violation of this section shall be void from its inception.

Section 13. **Subcontracts.** Engineer shall be as fully responsible to City for the acts and omissions of Engineer's subcontractors, and of persons either directly or indirectly employed by such subcontractors, in the same manner as Engineer is liable for the acts and omissions of its own employees. Engineer shall cause appropriate provisions to be inserted in all subcontracts to bind subcontractors to Engineer by the terms and conditions of this Agreement insofar as applicable to the work of subcontractors, and to give Engineer the same power to terminate any subcontract as City may exercise over Engineer under this Agreement. Nothing in this Agreement, and no course of dealing, shall create any contractual relationship between City and any of Engineer's subcontractors.

Section 14. **Accounting and Auditing.** Engineer shall keep accurate and complete records in support of all remuneration paid hereunder. City, or its audit representative, shall have the right at any reasonable time(s) to examine, audit, and reproduce all records pertaining to costs, including but not limited to payrolls, employees' time sheets, invoices, and all other evidence of expenditures for the Services. Such records shall be available for one year after completion of the Services.

Section 15. **Non-Exclusive Rights.** Nothing in the Agreement is to be construed as granting to Engineer the exclusive right to perform any or all of the Services, or any similar Services, from time to time required by City.

Section 16. **Indemnification.** Engineer shall indemnify, save and hold harmless City (including its elected and appointed officers, employees, successors and assigns) from and against any and all demands, liabilities, claims, damages, costs (including City's attorneys' fees) actions and/or proceedings resulting from Engineer's performance of the Services, whether such matters are based on simple negligence, conflict of interest, gross negligence, recklessness or intentional misconduct by Engineer (or any employees, subcontractors or agents of Engineer). In the event of a lawsuit brought against City as a result of the Services (or lack thereof), City shall notify Engineer of such lawsuit and afford Engineer the option of providing at Engineer's cost separate qualified legal representation to City (including its elected and appointed offices, employees, successors and assigns) that is reasonably acceptable to City. Engineer's failure to exercise its option to affirmatively defend City in such an action shall not excuse Engineer from responsibility to indemnify City from and against all liabilities, claims, damages, costs (including attorney fees) or other losses incurred by City in, or as a result of, such lawsuit, provided that the same are attributable to Engineer's improper performance of the Services hereunder.

Section 17. **Professional Responsibility.** Engineer shall perform the Services using equal or higher standards of care, skill and diligence as normally provided by a professional in the performance of consulting services similar to those contemplated hereunder. Without limiting any other remedies available to City, if Engineer fails to comply with such professional standards, Engineer shall, upon notice from City, promptly re-perform the sub-standard work at Engineer's sole cost.

Section 18. **Examination of Work.** All Services shall be subject to examination by City at any reasonable time(s), and City shall have the right to reasonably reject unsatisfactory work. City may give Engineer a reasonable opportunity to correct unsatisfactory work before pursuing other remedies. Neither City's examination of Services, failure to examine Services, City's acceptance of Services, nor payment therefor shall relieve Engineer from any of its obligations under this Agreement regarding the quality and accuracy of the Services.

Section 19. **Progress.** Engineer shall submit periodic written progress reports as reasonably requested by City. City or its agents or representatives may visit Engineer's offices at any reasonable time(s) to determine the status of the Services.

Section 20. **Conflict Resolution.** Except as otherwise provided herein, in the event of a dispute between the parties regarding the Services which is not disposed of by agreement, the resolution of the dispute shall be decided by City, which shall provide written notice of its decision to Engineer. Such decision by City shall be final unless Engineer, within 30 calendar days after such notice of City's decision, provides to City a written notice of protest, stating clearly and in detail the basis thereof. Engineer shall continue its performance of this Agreement during such resolution. If the parties do not agree, then the parties shall resolve the dispute pursuant to section 21 below.

Section 21. **Claims and Disputes.** Claims, disputes and other issues between the parties arising out of or related to this Agreement shall be decided by litigation in the Third Judicial District Court of Salt Lake County, Utah. Unless otherwise terminated pursuant to the provisions hereof or otherwise agreed in writing, Engineer shall continue to perform the Services during any such litigation and City shall continue to make payments to Engineer in accordance with the terms of this Agreement.

Section 22. **Notice.** Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within three days after such notice is deposited in the United States Mail, postage prepaid, and certified and addressed to the parties as set forth below.

Engineer: As Specified Below Engineer's Signature

City: COTTONWOOD HEIGHTS
Attn. Manager
2277 East Bengal Blvd.
Cottonwood Heights, UT 84121

with a copy to: Wm. Shane Topham
JONES WALDO HOLBROOK & MCDONOUGH
170 South Main Street, 15th Floor
Salt Lake City, UT 84101

Section 23. **City's Cooperation.** City will provide the following assistance to Engineer in connection with the Services:

(a) **Representative.** Designate a representative of City to act as Engineer's point of contact with respect to the Services; and

(b) **Information.** Provide to Engineer access to all non-confidential information pertaining to the Services that is in City's possession or is reasonably available to City. Engineer shall not be responsible for errors or omissions in any City-provided information, nor for delays in completing the Services attributable to City's delay in providing required information.

Section 24. **Conflicts.** In the event of inconsistencies within or between this Agreement and other applicable legal requirements, Engineer shall (a) provide the better quality or greater quantity of Services, or (b) comply with the more stringent requirements, either or both in accordance with City's interpretation.

Section 25. **Insurance.** Without limiting any indemnity or other obligations of Engineer hereunder, Engineer shall, prior to commencing work hereunder, secure and continuously thereafter (throughout the term of this Agreement) carry with insurers the following insurance coverage in policies which include provisions or endorsements naming City as an additional insured, and shall furnish proof thereof satisfactory to City promptly when requested:

(a) **Commercial general liability insurance** coverage with a minimum single limit of \$2,000,000.00. The coverage shall include bodily injury and property damage liability coverage, contractual liability coverage, products and completed operations coverage, as well as coverage to protect against and from all loss by reason of injury to persons or damage to property, including Engineer's own workers and all third persons, property of City and all third parties based upon and arising out of the negligent performance of Engineer's operations hereunder, including the operations of its subcontractors of any tier.

(b) **Business automobile liability insurance** coverage with a minimum single limit of \$1,000,000.00 for bodily injury and property damage with respect to Engineer's vehicles whether owned, hired or non-owned, assigned to or used in the performance of the Services.

(c) **Workers' compensation insurance** coverage as required by applicable workers' compensation and employer's liability statutes.

(d) **Professional negligence/errors and omissions insurance** covering all errors, omissions and other professional negligence on the part of Engineer and its officers, employees, agents, etc. in connection with the Services to be performed hereunder in a minimum coverage amount of \$2,500,000.00 per occurrence.

The foregoing insurance policies shall be through reputable, licensed insurers reasonably acceptable to City, and specifically shall provide that such insurance may not be terminated or reduced without at least 30 days' prior written notice to City.

Section 26. **Additional Provisions.** The following provisions also are integral to this Agreement:

(a) **Titles and Captions.** All section or subsection titles or captions herein are for convenience only. Such titles and captions shall not be deemed part of this Agreement and shall in no way define, limit, augment, extend or describe the scope, content or intent of any part or parts hereof.

(b) **Pronouns and Plurals.** Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plurals and vice versa.

(c) Applicable Law. The provisions of this Agreement shall be governed by and construed in accordance with the laws of the state of Utah.

(d) Integration. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings pertaining thereto.

(e) Time. Time is the essence hereof.

(f) Survival. All agreements, covenants, representations and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.

(g) Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Any party may, by notice delivered in the manner provided in this Agreement, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other party. No waiver shall affect or alter the remainder of this Agreement but each and every other covenant, agreement, term and condition hereof shall continue in full force and effect with respect to any other then existing or subsequently occurring breach.

(h) Rights and Remedies. The rights and remedies of the parties hereto shall not be mutually exclusive, and the exercise of one or more of the provisions of this Agreement shall not preclude the exercise of any other provisions hereof.

(i) Severability. In the event that any condition, covenant or other provision hereof is held to be invalid or void, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

(j) Litigation. If any action, suit or proceeding is brought by a party hereto with respect to a matter or matters covered by this Agreement, all costs and expenses of the prevailing party incident to such proceeding, including reasonable attorneys' fees, shall be paid by the nonprevailing party.

(k) Exhibits. All exhibits annexed to this Agreement are expressly made a part of this Agreement as though completely set forth herein. All references to this Agreement, either in this Agreement itself or in any of such writings, shall be deemed to refer to and include this Agreement and all such exhibits and writings.

(l) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

DATED effective the date first-above written.

ENGINEER:

GILSON ENGINEERING, INC.

By: _____
Brad Gilson, President

Print Address: 12401 South 450 East, Suite C2
Draper, UT 84020

Print Email Address:
Brad@GilsonEngineering.com

Print Telephone Number:
(801) 571-9414

CITY:

COTTONWOOD HEIGHTS

ATTEST:

By: 
Paula Melgar, Recorder



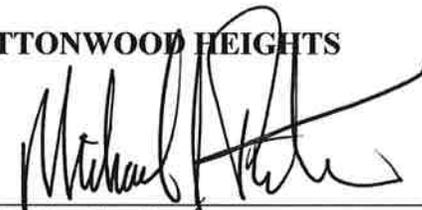
By: 
Michael J. Peterson, Mayor

Exhibit "A" to Agreement for Engineering Services

(Attach Detailed Description of Services)

The following definitions shall apply to this Exhibit A; any capitalized, undefined terms used in this Exhibit A shall have the meanings indicated in the Agreement:

"Addenda" written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding requirements or the proposed Construction Contract Documents.

"Additional Services" any additional services to be performed for or furnished to City by Engineer, as discussed in sections 1.05 and 1.06 of this Exhibit A.

"Basic Services" the services to be performed for or furnished to City by Engineer in accordance with the Agreement.

"Construction Contract" and *"Construction Contract Documents"* means the Agreement and the exhibits thereto.

"Construction Cost" means the fees set forth on Exhibit B.

"Constructor" any person or entity (not including the Engineer, its employees, agents, representatives, and Consultants), performing or supporting construction activities relating to the Project, including but not limited to Contractors, Subcontractors, Suppliers, City's work forces, utility companies, other contractors, construction managers, testing firms, shippers, and truckers, and the employees, agents, and representatives of any or all of them.

"Consultants" individuals or entities having a contract with Engineer to furnish services with respect to the Project as Engineer's independent professional associates and consultants; subcontractors; or vendors.

"Contractor" the entity or individual with which City enters into a Construction Contract.

"Documents" data, reports, Drawings, Specifications, Record Drawings, building information models, civil integrated management models, and other deliverables, whether in printed or electronic format, provided or furnished in appropriate phases by Engineer to City pursuant to the Agreement.

"Drawings" that part of the Construction Contract Documents that graphically shows the scope, extent, and character of the Work to be performed by Contractor.

"Effective Date" the effective date of the Agreement.

"Field Order" a written order issued by Engineer which requires minor changes in the Work but does not change the Construction Contract Price.

"Laws and Regulations; Laws or Regulations" any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

“Project” the total undertaking to be accomplished for City by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the services to be performed or furnished by Engineer under this Agreement are a part.

“Record Drawings” drawings depicting the completed Project, or a specific portion of the completed Project, prepared by Engineer as an Additional Service and based on Contractor's record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications, as delivered to Engineer and annotated by Contractor to show changes made during construction.

“Reimbursable Expenses” the expenses incurred directly by Engineer in connection with the performing or furnishing of Basic Services and Additional Services for the Project.

“Resident Project Representative” the authorized representative of Engineer assigned to assist Engineer at the Site during the Construction Phase. As used herein, the term Resident Project Representative or “RPR” includes any assistants or field staff of Resident Project Representative.

“Samples” physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.

“Shop Drawings” all drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Construction Contract Documents.

“Site” lands or areas to be indicated in the Construction Contract Documents as being furnished by City upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by City which are designated for the use of Contractor.

“Specifications” the part of the Construction Contract Documents that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.

“Subcontractor” An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.

“Substantial Completion” the time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Construction Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.

“Work” the entire construction or the various separately identifiable parts thereof required to be provided under the Construction Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Construction Contract Documents.

“Work Change Directive” a written directive to Contractor issued on or after the effective date of the Construction Contract, signed by City and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

Section 1.01 Final Design Phase

(A) After acceptance by City of the Preliminary Design Phase documents, revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, and any other Preliminary Design Phase deliverables, subject to any City-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon written authorization from City, Engineer shall:

1. Prepare final Drawings and Specifications indicating the scope, extent, and character of the Work to be performed and furnished by Contractor.
2. Visit the Site as needed to assist in preparing the final Drawings and Specifications.
3. Provide technical criteria, written descriptions, and design data for City's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design; assist City in consultations with such authorities; and revise the Drawings and Specifications in response to directives from such authorities, as appropriate.
4. Advise City of any recommended adjustments to the opinion of probable Construction Cost.
5. After consultation with City, include in the Construction Contract Documents any specific protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website. Any such protocols shall be applicable to transmittals between and among City, Engineer, and Contractor during the Construction Phase and Post-Construction Phase, and unless agreed otherwise shall supersede any conflicting protocols previously established for transmittals between City and Engineer.
6. Assist City in assembling known reports and drawings of Site conditions, and in identifying the technical data contained in such reports and drawings upon which bidders or other prospective contractors may rely.
7. In addition to preparing the final Drawings and Specifications, assemble drafts of other Construction Contract Documents based on specific instructions and contract forms, text, or content received from City.
8. Prepare or assemble draft bidding-related documents (or requests for proposals or other construction procurement documents), based on the specific bidding or procurement-related instructions and forms, text, or content received from City.
9. Perform or provide the following other Final Design Phase tasks or deliverables:

The purpose of this Agreement is for the Engineer to provide the City with the all necessary plans and specifications for the City's proposed "East Jordan Canal" trail as outlined in Exhibit "A-1", below. In the event of any conflict or inconsistency between the type and level of the Engineer's services described in this Exhibit "A" and those described in Exhibit "A-1," the Engineer shall provide the higher, better and more complete (from the City's perspective) level of services.

10. Furnish for review by City, its legal counsel, and other advisors, **Three (3)** copies of the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction

procurement documents), and any other Final Design Phase deliverables, within **Forty Five (45) Calendar Days** of authorization to proceed with the Final Design Phase, and review them with City.

11. Within **Ten (10) Working Days** of receipt, City shall submit to Engineer any comments regarding the furnished items, and any instructions for revisions.

12. Revise the final Drawings and Specifications, assembled drafts of other Construction Contract Documents, the draft bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables in accordance with comments and instructions from the City, as appropriate, and submit **Three (3) Final Copies** of such documents to City within **Five (5) Working Days** after receipt of City's comments and instructions.

(B) Design Completed Services

1. Engineer's services under the Final Design Phase will be considered complete on the date when Engineer has delivered to City the final Drawings and Specifications, other assembled Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and any other Final Design Phase deliverables.

Section 1.02 Bidding or Negotiating Phase

(A) After acceptance by City of the final Drawings and Specifications, other Construction Contract Documents, bidding-related documents (or requests for proposals or other construction procurement documents), and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon written authorization by City to proceed, Engineer shall:

1. Assist City in advertising for and obtaining bids or proposals for the Work, assist City in issuing assembled design, contract, and bidding-related documents (or requests for proposals or other construction procurement documents) to prospective contractors, and, where applicable, maintain a record of prospective contractors to which documents have been issued, attend pre-bid conferences, if any, and receive and process contractor deposits or charges for the issued documents.

2. Prepare and issue Addenda as appropriate to clarify, correct, or change the issued documents.

3. Provide information or assistance needed by City in the course of any review of proposals or negotiations with prospective contractors.

4. Consult with City as to the qualifications of prospective contractors.

5. Consult with City as to the qualifications of subcontractors, suppliers, and other individuals and entities proposed by prospective contractors, for those portions of the Work as to which review of qualifications is required by the issued documents.

6. If the issued documents require, the Engineer shall evaluate and determine the acceptability of "or equals" and substitute materials and equipment proposed by prospective contractors, provided that such proposals are allowed by the bidding-related documents (or requests for proposals or other construction procurement documents) prior to award of contracts for the Work. Services under this paragraph are subject to the provisions of Section 1.05(A)(2) of this Exhibit A.

7. Attend the bid opening, prepare bid tabulation sheets to meet City's schedule, and assist City in evaluating bids or proposals, assembling final contracts for the Work for execution by City and Contractor, and in issuing notices of award of such contracts.

8. If City engages in negotiations with bidders or proposers, assist City with respect to technical and engineering issues that arise during the negotiations.

9. Perform or provide the following other Bidding or Negotiating Phase tasks or deliverables:
Prepare bid documents for advertising of the project. Attend the bid opening and prepare the bid tabulations for review

(B) Bidding and Negotiating Phase Completion

1. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective contractors.

Section 1.03 Construction Phase

(A) Upon successful completion of the Bidding and Negotiating Phase, and upon written authorization from City, Engineer shall:

1. *General Administration of Construction Contract:* Consult with City and act as City's representative as provided in the Construction Contract. If City, or City and Contractor, modify the duties, responsibilities, and authority of Engineer in the Construction Contract, or modify other terms of the Construction Contract having a direct bearing on Engineer, then City shall compensate Engineer for any related increases in the cost to provide Construction Phase services. Engineer shall not be required to furnish or perform services contrary to Engineer's responsibilities as a licensed professional. All of City's instructions to Contractor will be issued through Engineer, which shall have authority to act on behalf of City in dealings with Contractor to the extent provided in this Agreement and the Construction Contract except as otherwise provided in writing.

2. *Resident Project Representative (RPR):* Provide the services of an RPR at the Site to assist the Engineer and to provide more extensive observation of Contractor's work.

3. *Pre-Construction Conference:* Participate in a pre-construction conference prior to commencement of Work at the Site.

4. *Electronic Transmittal Protocols:* If the Construction Contract Documents do not specify protocols for the transmittal of Project-related correspondence, documents, text, data, drawings, information, and graphics, in electronic media or digital format, either directly, or through access to a secure Project website, then together with City and Contractor jointly develop such protocols for transmittals between and among City, Contractor, and Engineer during the Construction Phase and Post-Construction Phase.

5. *Original Documents:* If requested by City to do so, maintain and safeguard during the Construction Phase at least one original printed record version of the Construction Contract Documents, including Drawings and Specifications signed and sealed by Engineer and other design professionals in accordance with applicable Laws and Regulations. Throughout the Construction Phase, make such original printed record version of the Construction Contract Documents available to Contractor and City for review.

6. *Schedules:* Receive, review, and determine the acceptability of any and all schedules that Contractor is required to submit to Engineer, including the progress schedule, schedule of submittals, and schedule of values.

7. *Baselines and Benchmarks:* As appropriate, establish baselines and benchmarks for locating the Work which in Engineer's judgment are necessary to enable Contractor to proceed.

8. *Visits to Site and Observation of Construction:* In connection with observations of Contractor's Work while it is in progress:

a) Make visits to the Site at intervals appropriate to the various stages of construction, as Engineer deems necessary, to observe as an experienced and qualified design professional the progress of Contractor's executed Work. Such visits and observations by Engineer, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of the Work or to involve detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Construction Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Engineer's exercise of professional judgment, as assisted by the Resident Project Representative, if any. Based on information obtained during such visits and observations, Engineer will determine in general if the Work is proceeding in accordance with the Construction Contract Documents, and Engineer shall keep City informed of the progress of the Work.

b) The purpose of Engineer's visits to the Site, and representation by the Resident Project Representative, if any, at the Site, will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and, in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for City a greater degree of confidence that the completed Work will conform in general to the Construction Contract Documents and that Contractor has implemented and maintained the integrity of the design concept of the completed Project as a functioning whole as indicated in the Construction Contract Documents. Engineer shall not, during such visits or as a result of such observations of the Work, supervise, direct, or have control over the Work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any Constructor, for security or safety at the Site, for safety precautions and programs incident to any Constructor's work in progress, for the coordination of the Constructors' work or schedules, nor for any failure of any Constructor to comply with Laws and Regulations applicable to furnishing and performing of its work. Accordingly, Engineer neither guarantees the performance of any Constructor nor assumes responsibility for any Constructor's failure to furnish or perform the Work, or any portion of the Work, in accordance with the Construction Contract Documents.

9. *Defective Work:* Reject Work if, on the basis of Engineer's observations, Engineer believes that such Work is defective under the terms and standards set forth in the Construction Contract Documents. Provide recommendations to City regarding whether Contractor should correct such Work or remove and replace such Work, or whether City should consider accepting such Work as provided in the Construction Contract Documents.

10. *Compatibility with Design Concept:* If Engineer has express knowledge that a specific part of the Work that is not defective under the terms and standards set forth in the Construction Contract Documents is nonetheless not compatible with the design concept of the completed Project as a functioning whole, then inform City of such incompatibility, and provide recommendations for addressing such Work.

11. *Clarifications and Interpretations:* Accept from Contractor and City submittal of all matters in question concerning the requirements of the Construction Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Construction Contract Documents. With reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Construction Contract Documents.

12. *Non-reviewable Matters:* If a submitted matter in question concerns the Engineer's performance of its duties and obligations, or terms and conditions of the Construction Contract Documents that do not involve (1) the performance or acceptability of the Work under the Construction Contract

Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to City and Contractor that Engineer will not provide a decision or interpretation.

13. *Field Orders:* Subject to any limitations in the Construction Contract Documents, Engineer may prepare and issue Field Orders requiring minor changes in the Work.

14. *Change Orders and Work Change Directives:* Recommend Change Orders and Work Change Directives to City, as appropriate, and prepare Change Orders and Work Change Directives as required.

15. *Differing Site Conditions:* Respond to any notice from Contractor of differing site conditions, including conditions relating to underground facilities such as utilities, and hazardous environmental conditions. Promptly conduct reviews and prepare findings, conclusions, and recommendations for City's use.

16. *Shop Drawings, Samples, and Other Submittals:* Review and approve or take other appropriate action with respect to Shop Drawings, Samples, and other required Contractor submittals, but only for conformance with the information given in the Construction Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated by the Construction Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto. Engineer shall meet any Contractor's submittal schedule that Engineer has accepted.

17. *Substitutes and "Or-equal":* Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor, but subject to the provisions of Section 1.05(A)(2) of this Exhibit A.

18. Inspections and Tests:

a) Receive and review all certificates of inspections, tests, and approvals required by Laws and Regulations or the Construction Contract Documents. Engineer's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Construction Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Construction Contract Documents. Engineer shall be entitled to rely on the results of such inspections and tests.

b) As deemed reasonably necessary, request that Contractor uncover Work that is to be inspected, tested, or approved.

c) Pursuant to the terms of the Construction Contract, require special inspections or testing of the Work, whether or not the Work is fabricated, installed, or completed.

19. *Change Proposals and Claims:*

a) Review and respond to Change Proposals. Review each duly submitted Change Proposal from Contractor and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to City and Contractor. If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer will not resolve the Change Proposal.

b) Provide information or data to City regarding engineering or technical matters pertaining to Claims.

20. *Applications for Payment:* Based on Engineer's observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:

a) Determine the amounts that Engineer recommends Contractor be paid. Recommend reductions in payment (set-offs) based on the provisions for set-offs stated in the Construction Contract. Such recommendations of payment will be in writing and will constitute Engineer's representation to City, based on such observations and review, that, to the best of Engineer's knowledge, information and belief, Contractor's Work has progressed to the point indicated, the Work is generally in accordance with the Construction Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction Contract Documents, and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work. In the case of unit price Work, Engineer's recommendations of payment will include final determinations of quantities and classifications of the Work (subject to any subsequent adjustments allowed by the Construction Contract Documents).

b) By recommending payment, Engineer shall not thereby be deemed to have represented that observations made by Engineer to check the quality or quantity of Contractor's Work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in this Agreement. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment including final payment will impose on Engineer responsibility to supervise, direct, or control the Work, or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the money paid to Contractor by City; to determine that title to any portion of the Work, including materials or equipment, has passed to City free and clear of any liens, claims, security interests, or encumbrances; or that there may not be other matters at issue between City and Contractor that might affect the amount that should be paid.

21. *Contractor's Completion Documents:* Receive from Contractor, review, and transmit to City maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance required by the Construction Contract Documents, certificates of inspection, tests and approvals, and Shop Drawings, Samples, and other data approved. Receive from Contractor, review, and transmit to City the annotated record documents which are to be assembled by Contractor in accordance with the Construction Contract Documents to obtain final payment. The extent of Engineer's review of record documents shall be to check that Contractor has submitted all pages.

22. *Substantial Completion:* Promptly after notice from Contractor that Contractor considers the entire Work ready for its intended use, in company with City and Contractor, visit the Site to review the Work and determine the status of completion. Follow the procedures in the Construction Contract regarding the preliminary certificate of Substantial Completion, punch list of items to be completed, City's objections, notice to Contractor, and issuance of a final certificate of Substantial Completion. Assist City regarding any remaining engineering or technical matters affecting City's use or occupancy of the Work following Substantial Completion.

23. *Other Tasks:* Perform or provide the following other Construction Phase tasks or deliverables: N/A

24. *Final Notice of Acceptability of the Work:* Conduct a final visit to the Project to determine if the Work is complete and acceptable so that Engineer may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, Engineer shall also provide a notice to City and Contractor that the Work is acceptable (subject to the provisions of the Notice and Section 1.03(A)(20)(b)) to the best of Engineer's knowledge, information, and belief, and based on the extent of the services provided by Engineer under this Agreement.

25. *Standards for Certain Construction-Phase Decisions:* Engineer will render decisions regarding the requirements of the Construction Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth in the Construction Contract for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to City or Contractor, and will not be liable to City, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

(B) *Duration of Construction Phase:* The Construction Phase will commence with the execution of the first Construction Contract for the Project or any part thereof and will terminate upon written recommendation by Engineer for final payment to Contractors. Engineer shall be entitled to an equitable increase in compensation if Construction Phase services (including Resident Project Representative services, if any) are required after the original date for completion and readiness for final payment of Contractor as set forth in the Construction Contract.

Section 1.04 Post-Construction Phase

(A) Upon written authorization from City during the Post-Construction Phase, Engineer shall:

1. Together with City, visit the Project to observe any apparent defects in the Work, make recommendations as to replacement or correction of defective Work, if any, or the need to repair of any damage to the Site or adjacent areas, and assist City in consultations and discussions with Contractor concerning correction of any such defective Work and any needed repairs.

2. Together with City, visit the Project within one month before the end of the Construction Contract's correction period to ascertain whether any portion of the Work or the repair of any damage to the Site or adjacent areas is defective and therefore subject to correction by Contractor.

(B) Perform or provide the following other Post-Construction Phase tasks or deliverables: N/A

(C) The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate twelve months after the commencement of the Construction Contract's correction period.

Section 1.05 Additional Services

(A) Additional Services Requiring City's Written Authorization

1. If authorized in writing by City, Engineer shall provide Additional Services of the types listed below. These services are not included as part of Basic Services and will be paid for by City as indicated in the Schedule of Engineer's hourly rates set forth in Exhibit B.

2. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans, or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others;

and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

3. Services to make measured drawings of existing conditions or facilities, to conduct tests or investigations of existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by City or others.

4. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Engineer, or the Project's design requirements, including, but not limited to, changes in size, complexity, City's schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Construction Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date or are due to any other causes beyond Engineer's control.

5. Services required as a result of City's providing incomplete or incorrect Project information to Engineer.

6. Providing renderings or models for City's use, including services in support of building information modeling or civil integrated management.

7. Undertaking investigations and studies including, but not limited to:

a) Detailed consideration of operations, maintenance, and overhead expenses;

b) the preparation of feasibility studies (such as those that include projections of output capacity, utility project rates, project market demand, or project revenues) and cash flow analyses, provided that such services are based on the engineering and technical aspects of the Project, and do not include rendering advice regarding municipal financial products or the issuance of municipal securities;

c) Preparation of appraisals;

d) Evaluating processes available for licensing, and assisting City in obtaining process licensing;

e) Detailed quantity surveys of materials, equipment, and labor; and

f) Audits or inventories required in connection with construction performed or furnished by City.

8. Furnishing services of Consultants for other than Basic Services.

9. Providing the following services: Services to arrange for performance of construction services for City by contractors other than the principal prime Contractor, and administering City's contract for such services.

10. Services during out-of-town travel required of Engineer, other than for visits to the Site or City's office as required in Basic Services.

11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by City; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other documents as a result of such review processes.

12. Preparing additional bidding-related documents (or requests for proposals or other construction procurement documents) or Construction Contract Documents for alternate bids or cost estimates requested by City for the Work or a portion thereof.

13. Preparing conformed Construction Contract Documents that incorporate and integrate the content of all Addenda and any amendments negotiated by City and Contractor.

14. Providing Construction Phase services beyond the original date for completion and readiness for final payment of Contractor, but only if such services increase the total quantity of services to be performed in the Construction Phase, rather than merely shifting performance of such services to a later date.

15. Preparing Record Drawings, and furnishing such Record Drawings to City.

16. Supplementing Record Drawings with information regarding the completed Project, Site, and immediately adjacent areas obtained from field observations, City, utility companies, and other reliable sources.

17. Conducting surveys, investigations, and field measurements to verify the accuracy of Record Drawing content obtained from Contractor, City, utility companies, and other sources; revise and supplement Record Drawings as needed.

18. Preparation of operation, maintenance, and staffing manuals.

19. Protracted or extensive assistance in refining and adjusting of Project equipment and systems (such as initial startup, testing, and balancing).

20. Assistance to City in training City's staff to operate and maintain Project equipment and systems.

21. Assistance to City in developing systems and procedures for (a) control of the operation and maintenance of Project equipment and systems, and (b) related recordkeeping.

22. Preparing to serve or serving as a consultant or witness for City in any litigation, arbitration, lien or bond claim, or other legal or administrative proceeding involving the Project.

23. Overtime work requiring higher than regular rates.

24. Providing construction surveys and staking to enable Contractor to perform its work other than as required under Section 1.03(A)(8); any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.

25. Providing more extensive services required to enable Engineer to issue notices or certifications requested by City.

26. Extensive services required during any correction period, or with respect to monitoring Contractor's compliance with warranties and guarantees called for in the Construction Contract (except as agreed to under Basic Services).

27. Other additional services performed or furnished by Engineer not otherwise provided for in this Agreement.

Section 1.06 Additional Services Not Requiring City's Written Authorization

(A) Engineer shall advise City that Engineer is commencing to perform or furnish the Additional Services of the types listed below. For such Additional Services, Engineer need not request or obtain specific advance written authorization from City. Engineer shall cease performing or furnishing such Additional Services upon receipt of written notice to cease from City.

1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by City.

2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or equal" items; services after the award of the Construction Contract in evaluating and determining the acceptability of a proposed "or equal" or substitution which is found to be inappropriate for the Project; evaluation and determination of an excessive number of proposed "or equals" or substitutions, whether proposed before or after award of the Construction Contract.

3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.

4. Additional or extended services arising from (a) the presence at the Site of any Constituent of Concern or items of historical or cultural significance, (b) emergencies or acts of God endangering the Work, (c) damage to the Work by fire or other causes during construction, (d) a significant amount of defective, neglected, or delayed Work, (e) acceleration of the progress schedule involving services beyond normal working hours, or (f) default by Contractor.

5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of the Work by City prior to Substantial Completion.

6. Evaluating unreasonable or frivolous requests for interpretation or information (RFIs), Change Proposals, or other demands from Contractor or others in connection with the Work, or an excessive number of RFIs, Change Proposals, or demands.

7. Reviewing a Shop Drawing or other Contractor submittal more than three times, as a result of repeated inadequate submissions by Contractor.

8. While at the Site, compliance by Engineer and its staff with those terms of City's or Contractor's safety program provided to Engineer subsequent to the Effective Date that exceed those normally required of engineering personnel by federal, State, or local safety authorities for similar construction sites.

Exhibit "A-1" to Agreement for Engineering Services

The City is constructing an asphalt trail along the East Jordan Canal Corridor. It is anticipated that the chosen alignment for East Jordan Canal Trail will be approximately 1,700 linear feet. The project will also include two at grade crossings, complete with ADA Ramps and ROW acquisition for an existing catwalk between Dawn Drive and Mountview Park.

- A. Planning and ROW Acquisition: Engineer shall coordinate with the residential property owner to acquire ROW on an existing catwalk. The Engineer shall provide easement and right of documentation where necessary for City to negotiate land acquisition.
- B. Final Design Package: The Engineer shall provide a complete final stamped design package to the City that will include all drawings, specifications, standards, schedules, and documents necessary to construct and bid the project. The scope of work must address, at a minimum, the following:
1. Topography and site survey support services
 2. Trail cross-section design
 3. Pedestrian crossing design at all road crossings
 4. ADA Ramp design at all road crossings
 5. Trail grading and site plan
 6. Establish survey control for project
 7. Coordination with Salt Lake City on proposed final design and incorporate of all Salt Lake City redlines
 8. Detailed engineer's estimate(s).
 9. Bid packages conforming to City forms and procurement rules. The provided design package shall comply with all applicable regulations as well as applicable OSHA requirements and City, MUTCD, and AASHTO design and construction standards, specifications, rules, regulations and practices.
 10. Review Meetings with City staff to prepare final design package and incorporate all redlines from City staff.
 - 11. Final approved plans must be provided to the City by February 15th, 2020.**
- C. Assistance in advertising the project: The City will advertise the project for bid. The Engineer shall assist in the bidding processes including the preparation of any addendums and responses to RFI's for each bid package.
- D. Contract Administration Services: The Engineer will perform contract administration for this project, including:
- Attend pre-construction coordination meeting
 - Review all submittals
 - Documentation
 - Payment estimates with recommendation for payments as determined by the City's inspectors.
 - Project accounting, project meetings, and project close-out.

Exhibit “B” to Agreement for Engineering Services

The Engineer’s total compensation under this Agreement shall be an all-inclusive flat fee of \$16,000, which shall be paid proportionate as the contracted-for services are completed, as reasonably determined by the City. Notwithstanding anything in this Agreement to the contrary, any Additional Services shall be subject to separate prior identification by the Engineer, approval by the City, and City-signed documentation.

Engineer’s Schedule of Hourly Rates:

Gilson Engineering and Team			
Cottonwood Heights 2019 Hourly Billing Schedule			
POSITION	Regular Rate	Previous CHC	New Rate CHC
Principal Engineer	\$150	\$120	\$128
Project/Senior Engineer	\$130	\$110	\$110
Sr. Project Representative	\$95	\$85	\$80
Project Representative	\$90	\$85	\$77
Sr. Civil Designer	\$90	\$85	\$77
Civil Designer	\$75	\$70	\$64
Survey Analyst/Drafter	\$65	\$75	\$55
Professional Land Surveyor	\$125	\$105	\$107
Survey Crew W/ Technician	\$125	\$110	\$107
Clerical	\$45	\$45	\$38
Mileage			\$0.58/mile
Testing			Cost + 15%
Expenses			Cost + 15%
Other			Cost + 15%